

KITTERY PORT AUTHORITY
November 5, 2015 Meeting Minutes
Council Chambers, Town Hall

Members Present: Kelly Philbrook, Ann Grinnell, Steve Lawrence, Mark Drummond, Peter Whitman and Bruce Crawford

Members Absent: None

Staff: Harbormaster Derek Jacobs

Meeting began at 6:00 p.m.

1. Call to order

2. Pledge of allegiance

Mr. Whitman noted before meeting began Kelly Philbrook, Steve Lawrence and Anne Grinnell are no longer Chair, Vice Chair and Secretary and thanked them for their service. Bruce Crawford has accepted Vice Chairmanship and Mark Drummond has accepted the Secretary role.

3. Minutes: October 1, 2015

Ms. Grinnell moved to approve the minutes of the October 1, 2015 meeting.

Mr. Drummond seconded

Motion Carried: 7-0-0

4. Harbormaster's Report: Derek Jacobs

Derek gave each board member a packet. First thing in the packet was the draft for the harbor water use and pier use fee schedules. This provides a basic fee for usage. The second item in the packet is the updated action list.

Derek stated there was some confusion with the revenues in the budget report last month. This report is the correct report with the year to date revenues. The year to date actual is about \$18,900 and this is without the mooring fees.

Mr. Whitman inquired when the fiscal year is and when will they catch up. Derek stated the fiscal year is July 1st which is when the mooring fees will come in. He did not have a year to date comparison on hand but could provide that.

Ms. Grinnell wanted to know why all the mooring fees were not in as of yet. Derek responded they collect mooring fees January, February, March and April so the mooring fees have not been collected for this fiscal year yet. Mooring fees will continue to grow until the end of June. Ms. Grinnell additionally inquired about the transient slip rental fees. Derek told Ms. Grinnell from July 1st the transient slip rental was \$1,565.50 and the transient mooring fees from July 1st were \$6,790. The harbor water usage fee will be collected in the beginning of the year.

The next item is the budget as we are here to date which includes the rigging bill. There was \$4,500 budgeted. The budget is in good shape compared to where it was last year.

Mr. Crawford asked if it's roughly the same then the Port Authority will be under budget for the whole year. Derek stated that it should come under what had been budgeted.

Mr. Whitman commented that for people that were not at the take out it worked very efficiently and wanted to acknowledge Mr. Draper who is in the audience for the great job he did helping Derek with the effort.

Mr. Lawrence asked what the actual bill was this year. Derek stated that the actual bill is on the detailed report which he didn't hand out. He only handed out the summary report. Mr. Lawrence asked for an estimate of the bill. Derek's stated the estimate was about \$1,445.

Derek stated the next item in the packets is the combined notes from himself and Peter Walsh on the workshop that regards the facility improvements

Derek wanted to add that they had discussed changing to 10 hour days Monday through Thursday as the town hall is closed on Fridays. Mr. Whitman stated that Derek was proposing to change to a 4 day week during the off season. Mr. Whitman asked if anyone had any concerns regarding the 4 day week. Mr. Lawrence said he had some concerns regarding the ice flows but would bring that up later during the board discussion. Mr. Whitman said everyone agreed to the 4 day work week. Derek stated he would still remain on call during the off season.

Derek noted that the status of the unpaid fees for Badger Island Marine remains the same he has not received any funds from them still. He sent the bill out certified so they have received the bill but there has been no response.

Mr. Whitman asked if there were any other questions for Derek. Mr. Crawford said he wanted to know what should be done regarding Badger Island Marine. Mr. Whitman asked if Mr. Crawford could wait on that as they will get into that in the next section.

5. Updates

Mr. Whitman announced the resignation of board member Ray Grenier. Mr. Whitman thanked Mr. Grenier for his service on the board and asked Mr. Drummond to please drop a note of thanks to him.

Mr. Whitman reported that he had met with the council chair who thought it was in everyone's best interest to postpone the meeting pending resolution on the KPA personnel issues. Mr. Whitman stated he had since spoken with him and they are thinking it will be best to meet at one of the January meetings.

Mr. Whitman commented since last month the Port Authority has had 3 meetings. Since the last public meeting they have had a training session on October 14th on municipal employment law, an executive session on October 20th which discussed employment issues and on October 29th had a meeting to discuss budget issues for 2016. At the work session on the 29th Derek and the assistant harbor masters put together a list of things that need to be done.

Mr. Whitman stated last month the board approved two applications, one was the Kolod application and two was the Kittery point Yacht Club application. They have both received

102 letters of approval. Mr. Whitman received an email regarding the Kolod application from the
103 engineer Barry a few days after the approval stating they wished to change their application.
104 The property abuts the Smith property and the applicants had some ideas on a way to remedy
105 that. Mr. Whitman had suggested to the applicants that it would be an amended application
106 and they should fill out the paperwork. They chose not to do that, so the application stands as
107 is. Mr. Crawford asked if they were going to keep the application as it was approved. Mr.
108 Whitman stated that was correct. Mr. Whitman felt that if they were going to change that
109 application it was important for them to come back before the board and amend the
110 application. The board would have welcomed that amendment however there were some
111 timing issues and the applicant chose not to do so.

112
113 Mr. Whitman noted the board also received an application for replacement in kind for Badger
114 Island Marine. There are two issues that came to a head with this application. The first issue
115 is the replacement in kind on its face is a fairly significant replacement in kind. Mr. Whitman
116 stated he spoke with the code enforcement officer regarding the replacement in kinds. They
117 felt it would be best if there would be someone who looks at the structure before and after it's
118 replaced to ensure it has been replaced in kind. Mr. Lawrence stated that he had done this in
119 the past. Mr. Whitman and the code enforcement officer felt there may be better control
120 particularly on a large project that someone hire an inspector as a condition of the approval
121 from the Port Authority and from the building inspector. Mr. Crawford stated that the
122 inspector should be hired by the town and then reimbursed by the applicant. Mr. Whitman
123 stated there was a system in place where there are independent inspectors licensed with the
124 state and then paid for by the applicant. Mr. Crawford had some concerns about the inspector
125 being paid by the applicant. He stated he thought the town had a system where they hired an
126 inspector and then was reimbursed by the applicant. Mr. Whitman said that is the normal way
127 they do it for a Planning Board and asked if the board would feel more comfortable doing it
128 that way. Mr. Crawford asked if the Badger Island project was a big project and Mr.
129 Whitman responded that it seemed to be a good size project. Mr. Lawrence asked what the
130 project entailed Mr. Whitman responded that he believed they were replacing a bunch of
131 pilings and decking. Mr. Whitman stated the point is that they need more control over this
132 process to ensure that applicants are in fact doing replacement in kind. Ms. Grinnell asked
133 what the board would do if they found out someone was not doing what they were supposed
134 to be. Mr. Whitman said presumably they would have to come before the board and start the
135 application process. Ms. Grinnell further asked what the consequences would be if the
136 project had been completed. Mr. Whitman stated Ms. Grinnell raised a good point and he was
137 not sure of the answer. Mr. Lawrence said there is a fine line between replacement in kind
138 and adding more square footage to a dock. Mr. Lawrence commented he feels the board does
139 not need to make the process so difficult that people feel they can't do maintenance and
140 repairs. Mr. Drummond asked where the board draws the line on when to involve a third
141 party. Mr. Whitman agreed it was a good question he said to him it is a matter of scale. Mr.
142 Lawrence stated that the issue should be looked at from all angles before any decisions
143 should be made. Mr. Crawford suggested that the board should work in conjunction with the
144 inspector which may help. Mr. Lawrence stated he has done these inspections himself. He
145 said typically they are pretty straight forward there may be some trickery in some areas
146 however you can tell pretty easily when changes have been made. Mr. Lawrence said he has
147 concerns about forcing people to hire an inspector and spend more money just to do
148 maintenance. Ms. Grinnell stated the board's goal is to try to keep people honest and Mr.
149 Whitman agreed. Mr. Whitman felt it would be best for the board to sit down with the code
150 enforcement officer and set some parameters around this issue. Mr. Lawrence reminded the
151 board that any work over \$2,000 you have to pull a building permit for which is kind of a

checks and balance. Mr. Whitman said he would get together with the building inspector and they would revisit this issue next month.

Mr. Whitman stated he went out of order a little bit because Badger Island Marine is refusing to pay their outstanding fees and as a result Mr. Whitman was not going to process their application for the replacement in kind. Mr. Lawrence asked how far back in arrears they were. Derek stated they are looking to collect this year's fees he cannot speak for prior years. Mr. Crawford asked as to the reason that they have not paid their fees. Derek stated that Badger Island feels that they have already paid their dues. Mr. Whitman interjected that they feel they pay too much already. Ms. Grinnell stated then they should not get the permit. The board was in agreement with that thinking. Mr. Whitman further stated that he feels the fees should be passed on to the attorney for collection. Mr. Crawford inquired regarding the budget for an attorney. Mr. Lawrence stated that they have been told in the past they have to have prior approval to use an attorney. Mr. Whitman said he would look into it and if he received the approval he will pass along the collection of fees to the attorney.

6. Public segment

Mr. Whitman announced Mr. Hall. Mr. Hall approached the podium and stated on the issue the board had just been discussing the town manager is the tax collector. Mr. Hall asked if anyone on the board knew about the public service handbook. He stated he wanted to read a few things out of it. Ms. Grinnell inquired if it was for the town of Kittery and what year was published. Mr. Hall stated it was for the town of Kittery and published in 2006. He said it was on the Kittery website if anyone would like to get it. Mr. Hall read "the role of members serving on boards and committees as well as the Kittery Port Authority find themselves uniquely situated in the government's organization. Appointed volunteers receive no compensation. Members are appointed not elected. They may not represent indefinite viable consistency. In some cases of considerable authority and staff can easily implement their recommendations and other areas that function is as advisors without any authority. The town's boards and committees exercise the authority delegated to them by the town council as set forth in the towns ordinances and charter with exception of the Kittery Port Authority which has of its authority defined in the state statute." Mr. Hall continued on page 20, he read "the town staff works for the town manager and through him/her for the town council. Staff does not work for board members with the exception of the Harbor Master who works for the Kittery Port Authority." Mr. Hall is not sure why people keep questioning who does the harbor master work for. On the issue of replacement in kind the procedure used to be that they'd send the harbor master down and he'd take pictures and measure and when the job was finished he would go back to make sure it was in kind. Mr. Hall stated hiring an engineer is kind of ridiculous. He further stated you can put right in a letter to the town code enforcement officer that anything over \$2,000 requires a building permit. The other issue Mr. Hall mentioned is the workshop. He's not sure how the Port Authority pulled it off but business is not supposed to be conducted outside of the public. A workshop has to be done through the Port authority. The board has to be a consensus or a motion. Mr. Hall said he was took back when he got that message. Mr. Hall additionally stated mooring 425 at Eagle point he is still not sure who owns it. Derek stated it's a repair mooring he can't recall the name of the owner. Mr. Hall inquired if the owner has a boat. Derek said he believes so but didn't know off the top of his head. Mr. Hall commented you have to have a boat before you can get a repair mooring which is a regulation. Mr. Hall continued mooring 906 out at the Isles of Shoals the ball is under water.

Mr. Draper approached the podium and commented that taking out of the docks and floats went very well and efficiently this year. Also wanted to comment that last week when they had that bad blow Derek and Paul put the big float in there and got it back out the next day. That night was pretty brutal allot of damage could've been done. Mr. Draper wanted to provide a couple positive comments.

7. Schedule for future work sessions

Mr. Whitman commented the board has been working hard this month but they have accomplished a lot. Mr. Crawford stated he wanted to discuss the matter of the mooring at the Isles of Shoals. He noted that according to regulations the board has the right to have that inspected and if it doesn't meet the regulations they can have it removed. Mr. Lawrence stated he felt Derek should go out and inspect the mooring. Mr. Crawford asked if they have the gear to pull it up. Mr. Lawrence stated they do not. Derek commented they did go out and look at that mooring and it was above the water. He further stated the board has the authority to have them have the mooring inspected by an inspector. Mr. Lawrence asked if the ball is sunk all the time. Derek stated when they went out the ball was not sunk. Mr. Crawford interjected that Mr. Hall was saying at high tide it is sunk. Derek stated they have heard that before. Mr. Whitman asked if it made a difference that there just was an astronomically high tide. Mr. Crawford said he's heard Mr. Hall mention this before and not just this recent high tide. Mr. Lawrence commented Mr. Hall brought this issue up in August. Mr. Whitman asked how the board would like to address this issue. Mr. Lawrence stated they should get a hold of the owner and have them issue a letter from a diver that is been serviced. Mr. Whitman asked Derek to add this to his list.

Mr. Whitman commented that the work session was publicly noted and was a public meeting.

Mr. Whitman stated he has compiled an abbreviated list of future work issues. The issues are budgetary issues regarding collecting fees, expenses, CIP, issues regarding moorings, mooring fields and all of the work and issues surrounding mooring fields, rules and regulations, and lastly issues regarding the independence of the board. Whether the board should remain independent or go under the wing of the town. Mr. Whitman stated he would like to have at least one work session a month in addition to the monthly meeting. Ms. Grinnell commented the board should look at goals and objectives for 2016 and see if those are realistic to do in a year and also revisit the 5 Year Plan. Mr. Whitman stated he was thinking they would deal with 2016 goals and objectives, then 5 year objectives which would lead into budget issues for 2016 so the budget can be based on what is trying to be accomplished. Mr. Whitman agreed some of the things that need to get done will not get done in 1 year and the 5 Year Plan is important. Mr. Whitman suggested the board plan a meeting for Wednesday, November 11th. Mr. Lawrence and Mr. Crawford stated they weren't available that day. The board members agreed to meet for a work session on Wednesday November 18th.

Mr. Lawrence commented that the December 31st mooring issue needs to be addressed before the 5 year plan. He further stated the CIP issue can be addressed after the 1st of the year before CIP season. The board agreed on changing the agenda for the work session and will deal with moorings. Ms. Grinnell asked if that is dealing with issue of changing the rules and regulations. Mr. Lawrence stated it's the same rules and regulations more so tightening up what the harbor master does so the board is aware where things stand at all times.

Mr. Whitman asked Derek if there were any other mooring issues that should be discussed. Derek stated they may also want to look at changing the mooring fees structure. The board added this to the agenda for the work session on the 18th. Mr. Crawford suggested they may want to also add the mooring rental program to the agenda. Mr. Whitman agreed and added it to the work session agenda.

8. Board member discussion

Mr. Lawrence asked Derek if he could get together with Cianbro before winter to come up with a game plan before the ice flow issue. Derek stated he would get in touch with his contact Cianbro. Mr. Whitman asked Derek to add this to his action items.

Mr. Crawford inquired about room in the budget for defibrillators. Derek stated it might fall under an equipment line item. Mr. Whitman commented it's a major priority for next year. Derek noted they can switch money from one line item to another as long as it's within the budget. Mr. Lawrence suggested contacting American ambulance for recommendations on getting them. Mr. Crawford suggested having Badgers Island Marine perhaps buying one in lieu of their overdue fees. Mr. Whitman suggested Derek may want to also check with York hospital about the defibrillators.

Ms. Grinnell inquired about replacing Ray Grenier on the board because of the new procedure for appointing people to boards. The appointments to boards have been held up because of the new process.

Mr. Whitman commented regarding the dredging taking place up river. Mr. Whitman stated he read the wave attenuation report that was done for Pepperell Cove. He stated there were a bunch of reasons that was not feasible. The number one reason was with the wave attenuation profile in place it would create additional fill in Pepperell Cove, 2. was eel grass, 3. was long term effects and global warming. It did talk about the amount of ledge that was expected to be generated which is about 25,000 cubic yards. In contrast to the $\frac{3}{4}$ of a million yards of silty sandy fill being created which is material they're talking about selling to a community. Mr. Whitman had an opportunity to speak with Mr. Marconi and had preliminary discussions on if the board found a good place to put that fill whether it would be a good opportunity to benefit both parties. The dredging is expected to be done in about a year. Mr. Whitman suggested board members think on this because there may be an opportunity to develop and amenity for the community.

Mr. Lawrence asked Mr. Walsh who was in the audience how long it took to do the study.

Peter Walsh approached the podium and stated the study took about a year to do. The town of Kittery hired Wright-Pierce to do a feasibility study on putting rock in areas around the fishing Island. The government geological department within the state of Maine added their comments and opinions as contributions to the study on eel grass.

9. Adjourn

Motion to adjourn was made by Ms. Grinnell and seconded by Mr. Whitman and Mr. Lawrence. Meeting adjourned at 7 p.m.